

**DEPARTMENT OF STATE REVENUE**

99980072.LOF

**LETTER OF FINDINGS NUMBER: 98-0072 MVE**

**Motor Vehicle Excise Tax**

**For Tax Period: 09/30/94 Through 09/30/98**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**I. Motor Vehicle Excise Tax – Imposition**

Authority: IC 9-13-2-78; IC 9-18-2-1

Taxpayer protests the imposition of the motor vehicle excise tax on her 1994 Honda.

**STATEMENT OF FACTS**

Throughout the assessment period taxpayer owned a 1994 Honda. Taxpayer was assessed the motor vehicle excise tax because she had not registered the vehicle in Indiana during the assessment period. The taxpayer also listed an Indiana address on multiple tax returns and had earned income in Indiana. Taxpayer protested this assessment. Additional facts will be provided below, as necessary.

**I. Motor Vehicle Excise Tax – Imposition**

**DISCUSSION**

Taxpayer filed a part-year resident, individual income tax return in Indiana for 1994. Taxpayer then filed a full-year resident return for 1995 and 1996. Taxpayer owned a home in Indiana throughout the assessment period. Taxpayer had an Indiana driver's license. Taxpayer did not register her vehicle in Indiana until January, 1998.

Pursuant to IC 9-18-2-1, a person is required to register any motor vehicles owned by that person which will be operated in Indiana within sixty days of becoming an Indiana resident. IC 9-13-2-78 defines an Indiana resident as:

(1) A person who has been living in Indiana for at least one hundred eighty-three (183) days during a calendar year and who has a legal residence in another state. However, the term does not include a person who has been living in Indiana for any of the following purposes:

(A) Attending an institution of higher education.

(B) Serving on active duty in the armed forces of the United States.

(2) A person who is living in Indiana if the person has no other legal residence.

(3) A person who is registered to vote in Indiana.

(4) A person who has a child enrolled in an elementary or a secondary school located in Indiana.

(5) A person who has more than one-half (½) of the person's gross income derived from sources in Indiana using the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who is considered a resident under this subdivision is not a resident if the person proves by a preponderance of the evidence that the person is not a resident under subdivisions (1) through (4).

Taxpayer claims she was not a resident of Indiana and her vehicle was not present in Indiana during most of the assessment period. Taxpayer argues she was not required to license and register her vehicle in Indiana. Taxpayer claims she was a resident of Alabama and Connecticut during the majority of the assessment period. Taxpayer claims she worked in Alabama from September, 1994 through October, 1995. Taxpayer has provided some proof of compensation from Alabama during 1995 and has also illustrated an address in Connecticut at some time during 1995. Taxpayer claims she was not registered to vote in Indiana and did not have her child enrolled in an Indiana school for a portion of the assessment period.

Taxpayer conceded she returned to Indiana to begin work in October, 1995.

Taxpayer was requested to submit school records for her child, tax returns for income earned in other states and evidence that the vehicle in question was not operated in Indiana. Taxpayer failed to submit this information.

Taxpayer has failed to provide sufficient evidence that she was not an Indiana resident throughout the assessment period. Alternatively, taxpayer has failed to prove her vehicle was not operated in Indiana throughout the assessment period.

**FINDING**

Taxpayer's protest is denied.